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MICHAEL RODAK, JR., C.

APPENDIX

IN THE

Supreme Court of the United States

October Term, 1974.

No. 73-1765.

SYLVIA WEEK, BERTHA G. MYERS, CHARLES A. WEATHERLEY, AMERICAN CIVIL LIBERTIES UNION, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, PENNSYLVANIA JEWISH COMMUNITY COUNCIL, and AMERICANS FOR SEPARATION OF CHURCH AND STATE.

Appellants,

JOHN C. PITTENGER, as Secretary of Education of the Commonwealth of Pennsylvania, and GRACE M. SLOAN, as Treasurer of the Commonwealth of Pennsylvania.

Appellees,

JOSE DIAZ and ENRIETA DIAZ, RE. WFA, et al.

Intervening Parties Appellants

Appeal From the United States District Court for the Eastern District of Pennsylvania.

FILED MAR 21 1975

PROBABLE JURISDICTION NOTED OCTOBER 15, 1974

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION No. 73-269.

SYLVIA MEEK, BERTHA G. MYERS, CHARLES A. WEATHERLY, AMERICAN CIVIL LIBERTIES UNION, NATIONAL ASSOCIATION FOR ADVANCEMENT OF COLORED PEOPLE, PENNSYLVANIA JEWISH COMMUNITY RELATIONS COUNCIL and AMERICANS UNITED FOR SEPARATION OF CHURCH and STATE

v.

JOHN C. PITTINGER, as Secretary of Education of the Commonwealth of Pennsylvania and Grace M. Sloan as Treasurer

Jose Diaz and Enilda Diaz, his wife, on their own behalf and as guardians of their minor children, Dalila, Jose, Jr., and Sergio Diaz; William Zimmerspitz and Nancy Zimmerspitz, his wife, on their own behalf and as guardians of their minor child, Rochelle Zimmerspitz; Thomas J. Hassall and Marie Hassall, his wife, on their own behalf and as guardians of their minor child, Patricia Anne; Daniel F. X. Powell and Anna T. Powell, his wife, on their own behalf and as guardians of their minor children, Kathleen A. and Daniel F. X., Jr.; Seth W. Watson, Jr. and Anne P. Watson, his wife, on their own behalf and as guardians of their minor child, Ellen P.,

Intervening Parties, Defendants.

(A1)

THREE JUDGE COURT.

RELEVANT DOCKET ENTRIES.

- 1 Feb. 7, 1973. Complaint filed.
- 5 Feb. 21, 1973. Motion of Jose Diaz, et al to Intervene as Parties Deft., filed.
- 6 Feb. 27, 1973. Answer filed.
- 7 Apr. 16, 1973. Order SEITZ, Ch. J., 3rd Judicial Circuit, designating Hon. John J. Gibbons, U. S. Circuit Judge, and the Hon. A. Leon Higginbotham, Jr. U. S. District Judge, to sit with the Hon. Louis C. Bechtle, U. S. District Judge as members of the Court for the hearing and determination of the above captioned matter, filed. (4-17-73 entered and copies mailed)
- 8 Apr. 26, 1973. Plffs. motion for temporary restraining order, filed.
- 9 Apr 26, 1973. Plffs. motion for preliminary injunction and affidavit, filed.
- 11 May 17, 1973. HEARING sur Motion for Temporary Restraining Order—DENIED. Final Pretrial Order No. 1 is deemed to govern the progress of this case.
- 11 May 17, 1973. Order dtd 5/17/73 that the Motion of Jose Diaz, et al to Intervene as parties deft is GRANTED; further Ordered that the Motion to Intervene by Pa. Association for Independent Schools, reported by counsel to be in the process of filing, when filed, will be deemed GRANTED, filed.

- 12 May 21, 1973. Motion of intervener defts to dismiss the complaint, filed.
- 13 May 23, 1973. Order that motion of intervener defts, Jose Diaz et al, to dismiss the complaint is DENIED filed 5/24/73 entered and copies mailed. Motion of John P. Chesick et al to intervene as parties deft, filed.
- 16 June 4, 1973. Answer of Intervener defts, Jose Diaz, et al, filed.
- 20 June 5, 1973. Motion to dismiss, of Intervenor-defts Chesick, et al, memorandum in support of motion, & notice, filed.
- 21 June 5, 1973. Motion of Intervenor-defts Chesick, et al under FRCP 12 to strike paragraph 8 of plff's complaint, Brief in support of motion to strike paragraph 8 & Notice, filed.
- 33 Jul. 3, 1973. Order, BECHTLE, J., that hearing scheduled for 6/18/73 is contd. to 9/19/73; all compliance dates are extended 60 days and fixing pre-trial for 9/5/73 at 4:00 p.m., etc., filed. Entered & copies mailed 7/5/73.
- 34 Aug. 2, 1973. Plff's. interrogatories to John C. Pittinger and Grace M. Sloan, filed.
- 37 Sep. 10, 1973. Joint final pre-trial order, filed.
 - Sep. 10, 1973. Hearing sur: Plff's. motion for preliminary injunction.
 - Sep. 10, 1973. Witnesses sworn.
 - Sep. 13, 1973. Hearing resumes—Plff's. moves to amend complaint—written motion and briefs to be filed—motion to dismiss withdrawn—C. A. V.

- 44 Sep. 28, 1973. Defts'. request for findings of fact and conclusions of law of Commonwealth of Pa. and Jose Diaz, et al, filed.
- 45 Feb. 11, 1974. Opinion, GIBBONS, CJ and BECHTLE, J., that plffs'. application for prelim. and final inj. against expenditure of Commonwealth funds pursuant to Act 194 will be DENIED and plffs'. application for a prelim. and final inj. against expenditure of Commonwealth funds pursuant to Act 195 will be GRANTED, etc., filed. entr. & ntes mailed 2/12/74.
- 46 Feb. 11, 1974. Opinion, HIGGINBOTHAM, J., concurring in part and DISSENTING in part with opinion of GIBBONS, CJ and BECHTLE, J., filed. entr. & notice mailed 2/12/74.
- 47 Mar. 7, 1974. Order, Gibbons, C. J. and Bechtle J., that plff's. application for preliminary and final injunction pursuant to Acts 194 & 195 are DENIED; defts. are preliminarily and finally enjoined from expending Commonwealth Funds pursuant to Act 195, etc., Commonwealth of Penna., et al are directed to file within 30 days an amendment to "Guidelines for the Administration of Acts 194 & 195" with Order Higginbotham, J., that he concurs with order only to the extent where relief as granted or denied is consistent, etc., filed. entr. & cys. mailed 3/8/74.
- 48 Mar. 21, 1974. Notice of appeal to Supreme Court of the United States, filed.
- 49 Apr. 12, 1974. Revisions to Guidelines for Administration of Acts 194 & 195, filed.
- May 20, 1974. Record transmitted to U. S. Supreme Court.

COMPLAINT.

1. Statement as to Jurisdiction.

1. This is a civil action brought by the plaintiffs, on their own behalf and on behalf of all others similarly situated, for a temporary and permanent injunction against the allocation and use of the funds of the Commonwealth of Pennsylvania to finance the operations of schools owned and controlled by religious organizations and organized for and engaged in the practice, propagation and teaching of religion, and to declare such use violative of the First and Fourteenth Amendments to the Federal Constitution.

2. Jurisdiction is conferred upon this Court pursuant to Title 28, United States Code, Sections 1331, 1343(3), 2281, 2283, 2201 and 2202.

3. The amount in controversy in this suit, exclusive of interest and costs, is in excess of Ten Thousand Dollars (\$10,000) as more fully appears hereinafter.

4. Each of the individual plaintiffs is a citizen of the United States. Each resides in the State of Pennsylvania, and in the Eastern District of Pennsylvania. Each of them pays various taxes in and to the Commonwealth of Pennsylvania. One or more of the plaintiffs have purchased and continues to purchase cigarettes in the Commonwealth of Pennsylvania and has paid the Pennsylvania Cigarette Tax thereon. Plaintiff, Sylvia Meek, has a child regularly registered in and attending public school in Pennsylvania.

5. The American Civil Liberties Union, the National Association for the Advancement of Colored People, the Pennsylvania Jewish Community Relations Council and Americans United for Separation of Church and State are organizations which are interested in maintaining the